

REMARKS

Applicants have corrected the errors noted in the Notice of Non-compliant Amendment. The arguments made previously in the Reply to Restriction Requirement are repeated here with reference to the corrected claim numbering.

Applicants elect the invention of Group V, claims 44-50 and new claims 70-89. The election is made with traverse.

Applicants request rejoinder of Groups III, VI, and VII and consideration of new claims 70-98. As noted by the Office, the present application is a National Stage application and is entitled to the unity of invention standard and not U.S. restriction practice. As stated in M.P.E.P. § 1850 (II), “unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features.” Groups III and V-VII and new claims 70-98 meet this standard.

Group V is directed to methods of producing a cell population depleted or enriched in a second type of cell. A special technical feature of this group involves employing a microfluidic device comprising obstacles that preferentially bind one type of cell relative to another type of cell. Similarly to Group V, Group III (claims 16-19 and 21-29) is also directed to methods of manipulating samples to separate or enrich a second type of cell. These claims also require a microfluidic device comprising obstacles that preferentially bind one type of cell relative to another type of cell. Thus, Groups V and III involve at

least one of the same or corresponding special technical features and should be rejoined. Moreover, new claims 70-89 are also directed to methods that employ a microfluidic device comprising obstacles that preferentially bind one type of cell relative to another type of cell, and these claims should be examined with Group V.

Groups VI (claims 51-56 and new claims 90-92 that incorporate claim 51 by reference) and VII (claims 57-69) are directed to devices for producing a cell population enriched or depleted in a second type of cell. Under the unity standard, claims directed to an apparatus specifically designed for carrying out a process should be included with claims directed to the process (M.P.E.P. § 1850 (III)(A)). In this case, the claims in Groups VI and VII all require a microfluidic device comprising obstacles that preferentially bind one type of cell relative to another type of cell, which corresponds to the special technical feature of the process claims. Applicants emphasize that joinder of claims directed to the process and a device for carrying out that process does not imply that the devices could not be used to carry out a different process, nor that the process could not be carried out using an alternative device (M.P.E.P. § 1850 (III)(A)).

Finally, new claims 93 – 98 are directed to a method of manufacturing a device for producing a cell population enriched or depleted in a second type of cell. Under the unity standard, a claim to a process specially adapted to manufacture a device should be joined with the device and a method of using the device (M.P.E.P. § 1850 (III)(A)). Each of these claims requires the manufacture of a microfluidic device comprising obstacles that

preferentially bind one type of cell relative to another type of cell. Accordingly, these claims inherently result in a product having a technical feature that corresponds to that of the claims directed to the device and methods of use described above.

In sum, Applicants request action on the merits for claims 16-19, 21-29, and 44-98. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

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Respectfully submitted,

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